

By: Geren

H.B. No. 44

A BILL TO BE ENTITLED

1 AN ACT

2 relating to exceptions to otherwise prohibited abortions based on a  
3 physician's reasonable medical judgment.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. This Act may be cited as the Life of the Mother  
6 Act.

7 SECTION 2. Amend Section 74.551, Civil Practice and  
8 Remedies Code, to read as follows:

9 Sec. 74.551. APPLICATION. ~~An action to which Section~~  
10 ~~74.552 applies is~~ A civil action brought against a physician or  
11 health care provider for a violation of a provision of Chapter 170,  
12 170A, or 171, Health and Safety Code, or Chapter 6-1/2, Title 71,  
13 Vernon's Texas Civil Statutes, subject to an exception provided by  
14 the chapter alleged to have been violated or other law, is a health  
15 care liability claim ~~for purposes of this chapter~~ and is subject to  
16 the same requirements as any other health care liability claim.  
17 This section does not affect a health care liability claim based on  
18 any other ground than a violation of Chapters 170, 170A, or 171,  
19 Health and Safety Code, or Chapter 6-1/2, Title 71, Vernon's Texas  
20 Civil Statutes.

21 SECTION 3. Section 170A.002(b), Health and Safety Code, is  
22 amended to read as follows:

23 (b) ~~The prohibition under~~ It is an exception to the  
24 application of Subsection (a) that does not apply if:

1 (1) the person performing, inducing, or attempting the  
2 abortion is a licensed physician+ ; and

3 (2) in the exercise of reasonable medical judgment,  
4 the pregnant female on whom the abortion is performed, induced, or  
5 attempted has a ~~life-threatening~~ physical condition aggravated by,  
6 caused by, or arising from a pregnancy that places the female at  
7 risk of death or poses a serious risk of substantial impairment of a  
8 major bodily function unless the abortion is performed or induced+  
9 ~~and~~

10 ~~(3) the person performs, induces, or attempts the~~  
11 ~~abortion in a manner that, in the exercise of reasonable medical~~  
12 ~~judgment, provides the best opportunity for the unborn child to~~  
13 ~~survive unless, in the reasonable medical judgment, that manner~~  
14 ~~would create.~~

15 ~~(A) a greater risk of the pregnant female's~~  
16 ~~death; or~~

17 ~~(B) a serious risk of substantial impairment of a~~  
18 ~~major bodily function of the pregnant female.~~

19 SECTION 4. Chapter 170A, Health and Safety Code, is amended  
20 by adding new Sections 170A.0021, 170A.0022, and 170A.0023 to read  
21 as follows:

22 Sec. 170A.0021. TREATMENT AFFECTING UNBORN CHILD;  
23 EXCEPTION. (a) Notwithstanding any other law, a physician who  
24 treats a condition described by Subsection 170A.002(b)(2) shall do  
25 so in a manner that, in the exercise of reasonable medical judgment,  
26 provides the best opportunity for survival of an unborn child.

27 (b) It is an exception to the application of Subsection (a)

1 that, in a physician's reasonable medical judgment, the manner of  
2 treatment required by that subsection would create a greater risk  
3 of:

4 (1) the pregnant female's death; or

5 (2) substantial impairment of a major bodily function  
6 of the pregnant female.

7 (c) This chapter does not require a physician to delay,  
8 alter or withhold medical treatment provided to a pregnant female  
9 if doing so would create a greater risk of:

10 (1) the pregnant female's death; or

11 (2) substantial impairment of a major bodily function  
12 of the pregnant female.

13 (d) Nothing in Subsection (c) authorizes the performance of  
14 an abortion that is prohibited by law.

15 Sec. 170A.0022. REASONABLE MEDICAL JUDGMENT. Reasonable  
16 medical judgment in providing medical treatment to a pregnant  
17 female includes removing:

18 (1) an ectopic pregnancy as defined by Section  
19 245.002(4-a); and

20 (2) a dead, unborn child whose death was caused by  
21 spontaneous abortion.

22 Sec. 170A.0023. ACCIDENTAL OR UNINTENTIONAL DEATH. (a)  
23 This section applies to any law that provides an exception to an  
24 otherwise prohibited abortion based on a condition described by  
25 Section 170A.002(b)(2).

26 (b) It is an exception to the application of each law  
27 described by Subsection (a) that the death or injury of an unborn

1 child resulted from treatment provided to a pregnant female based  
2 on a physician's reasonable medical judgment if the death of or  
3 injury to the unborn child was accidental or unintentional.

4 SECTION 5. Section 171.002(3), Health and Safety Code, is  
5 amended to read as follows:

6 (3) "Medical emergency" means a condition described by  
7 Section 170A.002(b)(2) means a life-threatening physical condition  
8 aggravated by, caused by, or arising from a pregnancy that, as  
9 certified by a physician, places the woman in danger of death or a  
10 serious risk of substantial impairment of a major bodily function  
11 unless an abortion is performed.

12 SECTION 6. Section 171.046(a) and (b), Health and Safety  
13 Code, are amended to read as follows:

14 (a) The prohibitions and requirements under Sections  
15 171.043, 171.044, and 171.045(b) do not apply to an abortion  
16 performed if ~~there exists a condition that,~~ in the physician's  
17 reasonable medical judgment, the abortion is necessary due to a  
18 medical emergency and ~~so complicates the medical condition of the~~  
19 ~~woman that, to avert the woman's death or a serious risk of~~  
20 ~~substantial and irreversible physical impairment of a major bodily~~  
21 ~~function, other than a psychological condition, it necessitates, as~~  
22 applicable:

23 (1) the immediate abortion of her pregnancy without  
24 the delay necessary to determine the probable post-fertilization  
25 age of the unborn child;

26 (2) the abortion of her pregnancy even though the  
27 post-fertilization age of the unborn child is 20 or more weeks; or

1           (3) the use of a method of abortion other than a method  
2 described by Section [171.045](#)(b).

3           (b) A physician may not take an action authorized under  
4 Subsection (a) if the medical emergency ~~risk of death or a~~  
5 ~~substantial and irreversible physical impairment of a major bodily~~  
6 ~~function~~ arises from a claim or diagnosis that the woman will engage  
7 in conduct that may result in her death or in substantial and  
8 irreversible physical impairment of a major bodily function.

9           SECTION 7. Section [171.063](#)(c), Health and Safety Code, is  
10 amended to read as follows:

11           (c) Before the physician provides an abortion-inducing  
12 drug, the physician must:

13                 (1) examine the pregnant woman in person;

14                 (2) independently verify that a pregnancy exists;

15                 (3) document, in the woman's medical record, the  
16 gestational age and ~~intrauterine~~ location of the pregnancy to  
17 determine whether an ectopic pregnancy exists as defined by Section  
18 [245.002](#)(4-a);

19                 (4) determine the pregnant woman's blood type, and for  
20 a woman who is Rh negative, offer to administer Rh immunoglobulin  
21 (RhoGAM) at the time the abortion-inducing drug is administered or  
22 used or the abortion is performed or induced to prevent Rh  
23 incompatibility, complications, or miscarriage in future  
24 pregnancies;

25                 (5) document whether the pregnant woman received  
26 treatment for Rh negativity, as diagnosed by the most accurate  
27 standard of medical care; and

1           (6) ensure the physician does not provide an  
2 abortion-inducing drug for a pregnant woman whose pregnancy is more  
3 than 49 days of gestational age.

4           SECTION 8. Subchapter H, Chapter 171, Health and Safety  
5 Code, is amended by adding a new Section 171.2011 to read as  
6 follows:

7           Sec.171.2011. APPLICABILITY. (a) This subchapter applies  
8 only to an abortion that is otherwise prohibited by law and that is  
9 not subject to an exception provided by law.

10           (b) The following activities do not constitute aiding or  
11 abetting under this subchapter:

12           (1) providing services by a physician or health care  
13 provider to a treating physician, or communication between a  
14 physician or health care provider and a treating physician, for the  
15 purposes of arriving at a reasonable medical judgment as required  
16 by an exception to an otherwise prohibited abortion;

17           (2) communicating between a physician or health care  
18 provider and a patient, or providing services by a physician or  
19 health care provider to a patient, for the purpose of arriving at  
20 reasonable medical judgment as required by an exception to an  
21 otherwise prohibited abortion;

22           (3) communicating between an attorney and a physician  
23 or health care provider related to an exception to an otherwise  
24 prohibited abortion;

25           (4) communicating between a treating physician and any  
26 other person or providing services to a treating physician or  
27 patient relating to performing, inducing or attempting an abortion

1 for which the treating physician has determined that, in reasonable  
2 medical judgment, an exception to an otherwise prohibited abortion  
3 is applicable;

4 (5) providing products to a patient or treating  
5 physician relating to performing, inducing or attempting an  
6 abortion for which the treating physician has determined that, in  
7 reasonable medical judgment, an exception to an otherwise  
8 prohibited abortion is applicable.

9 SECTION 9. Amend Section 245.002(4-a), Health and Safety  
10 Code, to read as follows:

11 (4-a) "Ectopic pregnancy" means the implantation of a  
12 fertilized egg or embryo:

13 (A) outside of the uterus;

14 (B) in an abnormal location in the uterus causing  
15 the fertilized egg or embryo to be non-viable; or

16 (C) in a scarred portion of the uterus.

17 SECTION 10. Amend Section 245.016, Health and Safety Code,  
18 to read as follows:

19 Sec. 245.016. ABORTION IN UNLICENSED ABORTION FACILITY TO  
20 PREVENT DEATH OR SERIOUS IMPAIRMENT. It is an exception to the  
21 application of Section 245.014 that the abortion was performed in  
22 an unlicensed abortion facility due to a medical emergency  
23 described by Section 170A.002(b)(2) ~~This chapter does not remove~~  
24 ~~the responsibility or limit the ability of a physician to perform an~~  
25 ~~abortion in an unlicensed abortion facility if, at the commencement~~  
26 ~~of the abortion, the physician reasonably believes that the~~  
27 ~~abortion is necessary to prevent the death of the patient or to~~

1 ~~prevent serious impairment of the patient's physical health. In~~  
2 this section, the term "unlicensed abortion facility" does not  
3 include an individual or entity to which funds appropriated by the  
4 legislature in the general appropriations act are prohibited from  
5 being distributed.

6 SECTION 11. Amend Section 164.052, Occupations Code, by  
7 adding a new Subsection (d) to read as follows:

8 (d) This section may not be construed to prohibit, and the  
9 board may not take action against a physician regarding, the  
10 performance of an abortion in response to a medical emergency  
11 described by Section 170A.002(b)(2), Health and Safety Code.

12 SECTION 12. Amend Section 164.055, Occupations Code, by  
13 adding by amending Subsection (c) to read as follows:

14 (c) Notwithstanding Subsection (a), the board may not take  
15 disciplinary action against a physician who exercised reasonable  
16 medical judgment in providing medical treatment to a pregnant woman  
17 as described by Section ~~74.552, Civil Practice and Remedies Code~~  
18 170A.002, Health and Safety Code.

19 SECTION 13. Amend Section 165.152, Occupations Code, by  
20 adding a new Subsection (e) to read as follows:

21 (e) It is an exception to the application of Subsection (a)  
22 if the person is a physician who performs, induces, or attempts an  
23 abortion due to a medical emergency described by Section  
24 170A.002(b)(2), Health and Safety Code.

25 SECTION 14. Article 4512.6, Chapter 6-1/2, Title 71,  
26 Vernon's Civil Statutes, is amended to read as follows:

27 Art. 4512.6. ~~BY~~ EXCEPTION FOR MEDICAL EMERGENCY ~~ADVICE.~~



1 ~~Nothing in this chapter applies to~~ (a) It is an exception to the  
2 application of this chapter that an abortion is procured, performed  
3 or attempted due to a medical emergency ~~by medical advice for the~~  
4 ~~purpose of saving the life of the mother.~~

5 (b) In this article, "medical emergency" means a condition  
6 described by Section 170A.002(b)(2), Health and Safety Code.

7 SECTION 15. The exceptions to otherwise prohibited  
8 abortions described by this Act:

9 (1) shall be construed as consistent with the opinion  
10 of the Texas Supreme Court in *In re State*, 682 S.W.3d 890 (Tex.  
11 2023), including with respect to providing that any threat posed by  
12 a female's pregnancy to her life or major bodily functions need not  
13 be imminent or irreversible; and

14 (2) except as provided by the change in law made by  
15 this Act to Section 170A.002(b)(2), Health and Safety Code, shall  
16 be construed as consistent with the opinion of the Texas Supreme  
17 Court in *State v. Zurawski*, 690 S.W.3d 644 (Tex. 2024), including  
18 with respect to the state's burden of proof in any enforcement  
19 action.

20 SECTION 16. The following statutes are repealed:

21 (1) Section 74.552, Civil Practice and Remedies Code;

22 (2) Section 170A.002(d), Health and Safety Code;

23 (3) Section 9.35, Penal Code.

24 SECTION 17. (a) To increase the understanding of the legal  
25 profession regarding the laws regulating abortion following the  
26 changes in law made by this Act, the State Bar of Texas shall  
27 develop, or solicit the development of, and offer to attorneys

1 licensed in this state a comprehensive program of continuing legal  
2 education regarding the regulation of abortion in this state, with  
3 a focus on the exceptions to otherwise prohibited abortions. The  
4 program shall include legal education regarding:

5 (1) statutory terminology applicable to the  
6 definition and regulation of abortion;

7 (2) prohibited abortions and prohibited medical  
8 techniques related to the performance of abortions;

9 (3) state law establishing statutory exceptions to  
10 otherwise prohibited abortions;

11 (4) the civil and criminal implications of abortion  
12 regulation in this state and the implications of statutory  
13 exceptions to otherwise prohibited abortions;

14 (5) the definition of "medical emergency" as defined  
15 by Section [170A.002](#)(b)(2), Health and Safety Code;

16 (6) the responsibility of a physician to exercise  
17 reasonable medical judgment in determining whether a condition or  
18 conditions exist allowing the performance of an abortion during a  
19 medical emergency; and

20 (7) the circumstances under which a physician is  
21 required under Section [170A.0021](#), Health and Safety Code, to treat  
22 a pregnant female who experiences such conditions in a manner that  
23 maximizes an unborn child's opportunity to survive if doing so does  
24 not increase the threat to the mother presented by those  
25 conditions.

26 (b) The program required by Subsection (a) shall be:

27 (1) developed in cooperation with the Health Law

1 Section of the State Bar of Texas, physician and health care  
2 provider organizations, and other non-State Bar of Texas  
3 stakeholders with a demonstrated interest and expertise in the  
4 required subject matter; and

5 (2) be promoted by communications made by the State  
6 Bar to all attorneys in this state, organizations representing  
7 physicians and health care providers whose members treat pregnant  
8 women, and health care institutions as defined by Section 74.001,  
9 Civil Practice and Remedies Codes.

10 (c) The course of instruction required by Subsection (a)  
11 must be offered at no cost to attorneys licensed in this state and  
12 shall be offered on the Internet provided through the state bar in  
13 addition to any other method approved by the state bar.

14 (d) The program required by Subsection (a) shall be offered  
15 no later than January 1, 2026.

16 SECTION 18. (a)(1) No later than January 1, 2026, the Texas  
17 Medical Board shall make available one or more approved courses  
18 regarding the laws relating to pregnancy-related medical  
19 emergencies as the term "medical emergency" is used in Title 2,  
20 Subtitle H, Health and Safety Code.

21 (2) The board may solicit the development of a course  
22 required by Subsection (1) by organizations representing  
23 physicians, institutions of higher education with medical schools,  
24 or other providers of continuing education to physicians acceptable  
25 to the board.

26 (3) After approval of a continuing education course  
27 required by this subsection, the board shall inform all licensed

1 physicians in this state of the availability of the course and  
2 request organizations representing physicians in general and  
3 physicians who practice in specialties that treat pregnant women to  
4 make the availability of the course known to their members.

5 (b) Completion of a course described by Subsection (a) shall  
6 be credited to the requirements for continuing medical education  
7 enforced by the Texas Medical Board.

8 (c) A course approved under Subsection (a) shall address:

9 (1) what does and does not constitute an abortion,  
10 including exclusions from that term for ectopic pregnancy and  
11 spontaneous abortion;

12 (2) the laws prohibiting abortion and any procedures  
13 prohibited by law for performing an abortion;

14 (3) the statutory exceptions to laws prohibiting  
15 abortion with an emphasis on exceptions based on a medical  
16 emergency as the term "medical emergency" is used in Title 2,  
17 Subtitle H, Health and Safety Code; and

18 (4) the laws regarding reasonable medical judgment as  
19 used in connection with the medical emergency exceptions to laws  
20 prohibiting abortions.

21 (d) Continuing medical education described in whole or in  
22 part by Subsection (c) does not constitute aiding or abetting as  
23 those terms are used in Subchapter H, Chapter 171, Health and Safety  
24 Code.

25 (e)(1) A physician licensed to practice medicine under  
26 Subtitle B, Title 3, Occupations Code, who provides obstetric care  
27 shall complete no later than June 1, 2027, a course described by

1 Subsection (a) that equals at least one hour of continuing medical  
2 education. This is a one-time requirement.

3 (2) The license of a physician described by Subsection  
4 (1) shall not be renewed if the physician has not complied with that  
5 subsection.

6 (3) The Texas Medical Board shall adopt rules to  
7 implement this subsection.

8 (f) The board shall make available at least one course  
9 required by this section at no cost to physicians licensed in this  
10 state and include on its internet website a list of courses of  
11 continuing medical education approved under Subsection (a).

12 (g) Nothing in Subsections (a) through (f):

13 (1) creates a cause of action or a standard of care,  
14 obligation or duty that provides the basis for a cause of action; or

15 (2) affects a health care liability claim, as defined  
16 by Section 74.001(13), Civil Practice and Remedies Code, based on  
17 any ground other than a violation of Chapters 170, 170A, or 171,  
18 Health and Safety Code, or Chapter 6-1/2, Title 71, Vernon's Texas  
19 Civil Statutes.

20 SECTION 19. This Act takes effect immediately if it  
21 receives a vote of two-thirds of all the members elected to each  
22 house, as provided by Section 39, Article III, Texas Constitution.  
23 If this Act does not receive the vote necessary for immediate  
24 effect, this Act takes effect September 1, 2025.